

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

A.J. RABE, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No.: 6:18-cv-116-ADA-JCM
	§	
UNITED STATES DEPARTMENT	§	
OF AGRICULTURE, FARM	§	
SERVICE AGENCY, AND	§	
NATIONAL APPEALS DIVISION,	§	
	§	
Defendants.	§	

**PLAINTIFF A. J. RABE INC.'S OBJECTIONS TO THE REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff A.J. Rabe Inc., (“Plaintiff”), by and through undersigned counsel, respectfully files this Objection to the Report and Recommendation of the United States Magistrate Judge (doc. 38) (the “Report”). The Defendants include the United States Department of Agriculture (“DoA”), Farm Service Agency (“FSA”), and National Appeals Division (collectively, “Defendants”). Plaintiff respectfully makes the following objections.

The Magistrate Judge mischaracterized the record with respect to the FSA and National Appeals Division’s determination that that the Plaintiff had a “history of failure to repay debts” based on “numerous judgments and debts in Plaintiff and Mr. Rabe’s credit histories, some of which were found to be in Plaintiff’s control.” Doc. 38 at 6. Specifically, the Report singles out a judgement to Knoxville Livestock that the FSA found to be “clearly within the control of the applicant.” *Id.* However, the underlying judgement referenced is not in the Administrative Record, thus there is no factual basis for the determination that the credit issue behind the

Knoxville Livestock judgment was “clearly within the control of the applicant.” See A.R. Plaintiff has asserted, and continues to assert, that the Knoxville Livestock credit issue was not within in its control, and without the underlying judgement in the Record, there is no basis for the determination that the issue is within Plaintiff’s control. Furthermore, Plaintiff has shown that other issues, such as the Federal Tax Lien, have been released or paid. See A.R. 000664. Therefore the Magistrate Judge’s conclusion that the referenced credit issues were “within the Plaintiff’s control” is unsupported by the Record.

Dated: July 11, 2019

Respectfully submitted,

/s/ Robert C. Rowe

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**COUNSEL FOR PLAINTIFF
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CERTIFICATE OF SERVICE

The undersigned certifies that, on July 11, 2019 a true and correct copy of the foregoing document was served by the Court's CM/ECF system on counsel for Defendants as listed below.

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/s/ Robert C. Rowe
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